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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* PERE OBRADOR

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Appeal 2008-0776
Application 09/879,168
Technology Center 2600

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Decided: July 8, 2008

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Before KENNETH W. HAIRSTON, ANITA PELLMAN GROSS, and KARL D. EASTHOM, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Final Rejection of claims 1-20, the only claims pending (*see* Br. 4, Final Office Action, mailed July 11, 2006). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant's claimed invention relates to a method and computer product for processing still images involving multi-resolution encoding, which includes sending image and boundary coefficients of different resolutions which correspond to different frequencies (*see generally* Spec. 8-9).

Claim 1 is illustrative of the invention and reads as follows:

1. A method for applying multi-resolution boundary encoding to region based still image and video encoding, comprising:

dividing an original image into a plurality of regions, wherein a plurality of boundaries associated with the plurality of the regions is detected;

encoding each of the plurality of the boundaries, whereby each of the plurality of the boundaries contains different resolution coefficients;

decomposing each of the plurality of the regions in the original image into one or more subbands using a plurality of the boundaries with the highest resolution coefficients selected from among the plurality of boundaries that are detected;

successively decomposing each of the plurality of the regions in a subband with lower resolution coefficients into one or more subbands using the plurality of the boundaries with lower resolution coefficients;

transmitting boundary information associated with regions of the original image and image information with the lowest resolution coefficients; and

successively transmitting boundary information associated with regions of the original image and image information with higher resolution coefficients.

The Examiner relies on the following prior art reference to show unpatentability:

Talluri US 6,026,183 Feb. 15, 2000

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Talluri.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the Brief and Answer for the respective details. Only those arguments actually made by Appellant have been considered in this decision. Appellant's arguments are directed toward independent claim 1 Therefore, we select claim 1 representative of the group of claims 1-20 (Br. 9). Arguments which Appellant could have made but chose not to make in the Brief have not been considered and are deemed to be waived. 37 C.F.R. § 41.37(c) (1) (vii).

FINDINGS OF FACT (FF)

1. Talluri discloses creating waveform transformations of different regions of interest such as, for example, face images, or motion failure regions; by filtering the regions into different subbands (col. 11, ll. 4-44, col. 12, ll. 44-60 ).

2. Talluri discloses dividing an image into regions of interest and regions outside the regions of interest. By zeroing the regions outside the region of interest, and employing traditional multi-level wavelet decomposition to the whole image, filtering the whole image or just the region of interest renders the same results, with filtering on the entire image being simpler. (Col. 13, ll. 29-46).

## PRINCIPLES OF LAW

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn,* 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence *of prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet,* 149 F.3d 1350, 1355 (Fed. Cir. 1998)). Appellants may sustain this burden by showing that the prior art reference relied upon by the Examiner fails to disclose an element of the claim. It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984).

## ANALYSIS

Appellant disputes the Examiner's finding that Talluri teaches dividing an original image into a plurality of regions. In particular, Appellant asserts that Talluri discloses "applying the transform method to regions of interest, not just homogeneous regions which fill up the entire frame." (Br. 9). In other words, according to Appellant, "[t]he present features do not limit the image encoding to 'a region of interest' but instead focus on homogeneous regions which fill up the entire frame." (Br. 10).

The Examiner responds by correctly noting, in our view, that "features upon which applicant relies (i.e., homogenous regions which fill up the entire frame) are not recited in the rejected claim(s)." (Ans. 4). Claim 1

does not recite dividing an entire frame, rather it recites dividing an original image into a plurality of regions. Talluri discloses dividing an image frame having regions of interest such as facial images into a plurality of regions (FF 1), thereby meeting the method as set forth in claim 1. In sum, Appellant's argument is not commensurate in scope with the claim. Alternatively, Talluri discloses dividing the whole image frame into regions of interest and those outside the regions of interest (FF 2).

We also are not persuaded by Appellant's statement that "Talluri is silent with respect to transmitting boundary information associated with regions of the original image and image information with the lowest resolution coefficients; and successively transmitting boundary information associated with regions of the original image and image information with higher resolution coefficients." (Br. 11). We concur with the Examiner's finding that Talluri's Figure 11 teaches the recited features (Ans. 3, 5). We find that Figure 11 reasonably discloses successive transmission, as indicated by the arrows depicted, of the lowest resolution coefficients associated with LL3, HH2, etc, and the highest resolution coefficients associated with HH1, as a typical and common wavelet compression technique,[1] thereby meeting the claim. Appellant does not explain why the Examiner's position is in error. Mere recitation and underlining of the elements of a claim does not constitute an argument for patentability.[2] *See*

[1] We also note that Talluri reasonably discloses as prior art, or as an experiment, the same or similar wavelet technique employed on the whole frame, alternatively meeting the claim. (*See* col. 11, ll. 53-56, col. 12, ll. 18-21).

[2] Similarly, Appellant's mere recitation that "the present features clearly state 'dividing an original image into a plurality of images . . . .'" (Br. 10)

37 C.F.R. § 41.37(c) (1) (vii). Accordingly, Appellant's statement without supporting argument or evidence fails to convince us of error.

Accordingly, we sustain the Examiner's rejection of claim 1. We also sustain the rejection of claims 2-20 not separately argued.

## DECISION

Applying the preceding legal principles to the factual findings in the record of this appeal, we determine that the Examiner has properly identified factual findings and reasoning for establishing a prima facie case of anticipation based on Talluri which Appellant has not adequately rebutted. In view of the above discussion, since Appellant has not convinced us of error in the Examiner's determination, we sustain the Examiner's 35 U.S.C. § 102(b) rejection of claims 1-20.

## CONCLUSION

The Examiner's decision rejecting claims 1-20 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (1) (iv) (2006).

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does not explain why the Examiner's position is in error. We concur with the Examiner's finding that Talluri discloses dividing in the manner as set forth in the claim (*see* Ans. 3-4). We also note that creating different subregions of interest, for example, different face images and/or motion failure regions, in the same frame, (*see* FF 1), or dividing the whole image (*see* FF 2), constitutes dividing in the manner claimed, as explained *supra*.

AFFIRMED

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